

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BALTAZAR CARDENAS-MENDOZA,

Petitioner,

v.

JOHN D. ASHCROFT, *et al.*

Respondents.

CASE NO. C04-2100RSM

ORDER OF TRANSFER

On February 2, 2005, the Honorable Monica J. Benton, United States District Judge, entered her Report and Recommendation (“R&R”) in this case. Petitioner subsequently filed objections, and respondents filed a reply. The objections were noted for consideration by the undersigned District Judge. However, before the undersigned District Judge could issue a decision, the United States government enacted the REAL ID Act of 2005, divesting this Court of jurisdiction to review any immigration cases involving challenges to final orders of removal, and granting exclusive jurisdiction of such cases to the circuit courts of appeals.

Respondents have since moved for transfer of this case to the Ninth Circuit Court of Appeals, or dismissal of the petition for lack of subject matter jurisdiction. Petitioner agrees that the case is appropriate for transfer, but asks the Court to extend its temporary stay of removal as well.

The Ninth Circuit Court of Appeals has recently advised this Court on its preferred procedure for transfer of cases. Accordingly, the Court does hereby ORDER:

ORDER OF TRANSFER  
PAGE - 1

- (1) Having reviewed the parties' briefs regarding transfer of this case to the Ninth Circuit Court of Appeals, this Court agrees that the case is appropriate for transfer. Accordingly, this case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals as a PETITION FOR REVIEW.
- (2) The Clerk SHALL transmit the entire case file to the Ninth Circuit Court of Appeals simultaneously with this Transfer Order.
- (3) The Ninth Circuit Court of Appeals has requested that this Court inform it if petitioner has ever sought a stay of removal, and of this Court's decision on such request. On October 7, 2004, petitioner sought a temporary stay of removal pending a final decision in his case. Respondents did not object to such a stay at that time. Therefore, on November 3, 2004, the Court granted petitioner's request for temporary stay of removal, and his removal has been stayed. It is this Court's understanding that because petitioner made such request, a transfer of this case to the Ninth Circuit Court of Appeals will trigger the temporary stay of removal contemplated by the Court of Appeals' General Order 6.4. It is also this Court's understanding that, once transferred, the Court of Appeals will issue its own Order directing the transferred parties on how to proceed further.
- (4) The Clerk is directed to CLOSE this case, and send a copy of this Order to all counsel of record. The Clerk is further directed to send a copy of this Order to the Honorable Monica J. Benton.

DATED this 2nd of June, 2005.

/s/ Ricardo S. Martinez  
RICARDO S. MARTINEZ  
United States District Judge